

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	CHAPTER 13
	:	
FRANK E. MAHONEY,	:	
	:	NO. 16-14519 (MDC)
	:	Hearing Date: 3/9/17
Debtor.	:	Time: 11:00 a.m.
	:	Courtroom #2

**DEBTOR'S MOTION TO RECONSIDER AND VACATE DISMISSAL OF THE
CHAPTER 13 BANKRUPTCY PURSUANT TO 11 U.S.C. §105**

Debtor, Frank E. Mahoney, by and through their undersigned counsel, hereby moves this Honorable Court for an Order reconsidering and vacating dismissal of the Debtor's Chapter 13 Bankruptcy Proceeding, and in support thereof, states the following:

1. The Debtors commenced this case on June 25, 2016 by filing a voluntary petition for relief under Chapter 13 of Title 11 of the United States Code.
2. Jurisdiction of the Bankruptcy Court to hear this motion is provided by 28 U.S.C. § 1334.
3. This motion is filed by the Debtor under 11 U.S.C. § 105 to reconsider dismissal of the Debtor's Chapter 13 Bankruptcy Proceeding and Vacate the Order entered on February 2, 2017 (the "Dismissal Order").

4. The Debtor filed an initial chapter 13 plan on June 25, 2016.
5. The Meeting of Creditors was held and concluded on August 31, 2016.
6. The Debtor filed its first amended chapter 13 plan on October 5, 2016.
7. Debtor's confirmation hearing was scheduled for **December 15, 2015** (the "Confirmation Hearing").
8. Pingora Loan Servicing, LLC ("Pingora") filed a Motion for Relief from Stay to proceed to foreclose on the debtor's primary residence (the "Pingora" Motion). The hearing on the Pingora Motion was eventually scheduled for **December 15, 2016**.
9. The Confirmation Hearing and the Pingora Motion were scheduled for the same date, **December 15, 2016**.
10. The Trustee filed a Motion to Dismiss based on *inter alia*, unreasonable delay on December 20, 2016 (the "Trustee's Motion to Dismiss"), and a hearing on the Trustee's Motion was scheduled for **February 2, 2017**.
11. Debtor filed a second amended chapter 13 plan on December 12, 2016 which Debtor believed resolved the issues raised by the Pingora Motion.
12. Debtor's counsel and counsel for Pingora continued to negotiate and resolve the nuances of the Pingora Motion. Pingora's Motion was then rescheduled for **February 9, 2017** while the parties discussed the filing of a Stipulation to finally resolve the Pingora Motion.
13. Since the Confirmation Hearing and the Pingora Motion had been previously scheduled for the same date (December 15, 2015), Debtor's

counsel believed that the Trustee's Motion to Dismiss, as well as Pingora's Motion and the Confirmation Hearing were all re-scheduled for the same date, i.e., **February 9, 2017**.

14. Due to Debtor's counsel belief (*albeit*, incorrectly) that both the Trustee's Motion to Dismiss and Pingora's Motion were scheduled for the same date and that Debtor's counsel was actively working to resolve Pingora's Motion, Debtor's Counsel inadvertently overlooked the February 2, 2017 hearing date for the Trustee's Motion to Dismiss.
15. The Confirmation Hearing and the Pingora Motion were originally scheduled for the same date of December 15, 2016. Debtor's counsel believed that the dates for the (a) the Pingora Motion; (b) the Confirmation Hearing and (c) the Trustee's Motion to Dismiss were therefore all scheduled for the same date, i.e., **February 9, 2017**.
16. Debtor's counsel maintains that the chapter 13 Trustee traditionally schedules its hearings (namely, confirmation hearings, objections, motions) on the same date to consolidate issues for the trustee, the Court and the debtor.
17. In this case, the Trustee's Motion was scheduled one week prior to the hearing on the Pingora Motion, and as such, Debtor's counsel conflated the dates since the Pingora Motion and the Confirmation Hearing had been previously scheduled for the same date.
18. Debtor has proposed a plan that will resolve the Pingora Motion.

19. Debtor can file another amended plan to resolve other filed claims pursuant to the Trustee's recommendations.
20. The Debtors maintain that no creditors have been harmed by the slight delay in confirming an amended chapter 13 plan. Moreover, the Debtors have been making consistent payments to the Chapter 13 Trustee.

WHEREFORE, the Debtors respectfully request this Honorable Court vacate the Order dated February 2, 2017, dismissing the Debtors' Chapter 13 Bankruptcy Proceeding and for such additional relief as may be just and proper.

Respectfully submitted:

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By: **/s/Maggie S. Soboleski**

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Dated: February 8, 2017